

## ARTICLE VII. WATER CONSERVATION

### DIVISION I. WATER CONSERVATION

#### Sec. 49-241. Definitions.

[The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:]

*Acre-foot of water* means that quantity of water required to cover one (1) acre of land one (1) foot deep three hundred twenty-five thousand, eight hundred fifty-one (325,851) gallons.

*Active recreational area* means an area designated and primarily used for organized sports such as softball, baseball, football, soccer or a similar related sport, including all amenities related to the activity.

*Body of water* means any artificially constructed lake, pond or lagoon, regardless of size.

*Department* means the City of Scottsdale Water Resources Department. Escaped water means the pumping, flow release, escape or leakage of any water from any pipe, valve, faucet, connection, diversion berm, well, or any facility for the purposes of water supply, transport, storage, disposal, or delivery onto adjacent property or public right-of-way.

*General manager* means the city water resources department general manager or the general manager's designee.

*Hot water recirculation system* means a system that consists of pipes with a motor driven pump that recirculates water between a water heater and hot water faucets.

*Lot* means a legally created parcel of land occupied or intended for occupancy by one (1) or more main buildings together with accessory buildings.

*Model home* means a facility used exclusively for the promotion and sale of homes similar to the model.

*Person* means an individual, corporation, partnership, incorporated association, or any other similar entity.

*Right-of-way* means land which by deed, conveyance, agreement, easement, dedication, usage or process of law is reserved for or dedicated to the general public for street, highway, alley, public utility, or pedestrian walkway purposes.

*Turf* means a surface layer of earth containing grass with its roots.

*Turf-related facility* means a school, public recreational facility, cemetery, golf course, industrial park or common area of a housing development that applies water from any source, including effluent, to ten (10) or more acres of land.

*Water feature* means any fountain, pond, water course, waterfall, or other artificial water structure of any kind filled or refilled with water from any source.

*Water intensive landscaping* means an area of land that is watered with a permanent water application system and planted primarily with plants not listed in the Phoenix AMA Low Water Use Plant List. Included is the total surface area of all water features (i.e. swimming pools of any size, fountains, ponds, water courses, waterfalls, and other artificial water structures) filled or refilled with water from any source.

*Water waste* means the non-beneficial use of water provided by the city water supply system.

(Ord. No. 2318, § 2, 12-17-90; Ord. No. 2927, § 1, 10-14-96; Ord. No. 3121, § 1, 03-16-98; Ord. No. 3178, § 4, 10-05-98; Ord. No. 3409, 11-26-01; Ord. No. 3621, § 1A, 7-5-05)

**Editor's note:** It should be noted that § 5a, of Ord. No. 3621, adopted July 5, 2005, shall be effective Aug. 5, 2005.

**Sec. 49-242. Limitation on water features for commercial users, new industrial users and common areas of residential developments.**

(a) No person shall place into operation after February 1, 1991, any water feature that either sprays water into the air in a fine mist or sprays or drops water into the air in excess of six (6) feet in vertical height.

(b) Water features shall be:

(1) Outside of city right-of-way, not visible from the street unless approved by the water conservation office.

(2) Designed with a potable water make up. This make up supply shall include a reduced pressure principle backflow prevention assembly installed as per the current standard detail adopted by the City of Scottsdale Standards and Specification Committee. No water shall be used to supply any water feature from a landscape irrigation system.

(3) Designed with catch basins that will maximize the amount of water recycled and minimize make up water. Outdoor water features that may over-spray shall be equipped with wind shut-off valves.

(4) Designed using equipment that will minimize leakage throughout the life of the water feature.

(5) Equipped with a recirculating pump. Filtered backwash shall be reused in a beneficial manner to surrounding plant material and landscaped areas. Discharge of water into streets and alleys is prohibited.

(6) Separately metered if using more than one thousand (1,000) gallons of water per day.

(c) In addition to the provisions above, nonresidential water features shall be:

(1) Operational only during normal business hours.

(2) Sited to allow significant environmental enhancement to on-site users and used to cool surrounding area and mask objectionable noises. Allowable examples: Courtyards and restaurant seating areas not visible from the street.

(d) Any person installing a water feature must provide a water feature plan to the city and obtain a permit before commencing construction.

(e) Exclusions.

(1) Any system that injects or drops water into the air solely for the purpose of cooling a confined air space.

(2) Water parks.

(3) Single-family residential properties.

(Ord. No. 2318, § 2, 12-17-90; Ord. No. 3161, § 5, 6-15-98; Ord. No. 3409, 11-26-01; Ord. No. 3621, § 1A, 7-5-05)

**Editor's note:** It should be noted that § 5a, of Ord. No. 3621, adopted July 5, 2005, shall be effective Aug. 5, 2005.

**Sec. 49-243. Water conservation rebate programs.**

(a) The general manager or the general manager's designee may issue water conservation rebates.

(b) To qualify for a rebate, the applicant must satisfy the following general requirements:

- (1) Comply with the procedure stated in the most current rebate application form available from the water conservation office.
- (2) Own the property or be responsible for payment of the water bill.
- (3) The property must receive water from the city water system.
- (4) Provide proof of purchase and/or allow for inspection of installation during normal business hours prior to disbursement of rebate funds.

(c) All rebates will be paid in the form of a credit applied to the owner's water bill unless otherwise designated. The total dollar amount of rebates issued in any fiscal year shall not exceed the maximum amount of funds budgeted for such rebates.

(d) Rebate programs available:

(1) *Plumbing.* The rebate for installing a 2.75 or fewer gallon per minute showerhead is limited to actual cost or five dollars (\$5.00) per unit, whichever is less. The rebate for installing a 1.6 or fewer gallon per flush toilet is limited to actual cost or seventy-five dollars (\$75.00) per unit, whichever is less. No plumbing rebates are given for structures built after January 1, 1992.

(2) *Hot water recirculating system.* A rebate is offered for installing a hot water recirculating system in an existing structure. A minimum building permit is required and the hot water recirculation system must be inspected per building permit requirements. The rebate amount is limited to actual cost or two hundred dollars (\$200.00) per system, whichever is less.

(3) *Turf removal for single family residential customers.* A rebate is offered for the removal of turf from the landscape or the removal of turf from the landscape with installation of approved low-water-use landscaping. The rebate amount is calculated based upon the amount of turf removed and landscape installed, and is limited to no more than one thousand five hundred dollars (\$1,500.00) per property. No rebates will be granted for turf removal occurring before July 1, 2005.

(4) *Turf removal and landscape installation for commercial, multifamily, residential common areas.* A rebate is offered for the removal of turf from the landscape and installation of city approved low-water-use landscaping. A plan approved by Planning and Development Services is required. The rebate amount is calculated based upon the costs for conversion, and is limited to no more than three thousand dollars (\$3,000.00) per property. No rebates will be granted for turf removal occurring before July 1, 2005.

(5) *Irrigation controller.* A rebate is offered for the purchase of a new multiprogrammable, permanently hardwired, electronically activated irrigation controller. The rebate amount is limited to actual cost or two hundred fifty dollars (\$250.00) per unit, whichever is less.

(Ord. No. 2329, § 1, 11-18-91; Ord. No. 2472 § 1, 9-14-92; Ord. No. 3178, § 7, 10-5-98; Ord. No. 3409, 11-26-01; Ord. No. 3621, § 1A, 7-5-05)

**Editor's note:** It should be noted that § 5a, of Ord. No. 3621, adopted July 5, 2005, shall be effective Aug. 5, 2005.

#### **Sec. 49-244. Water application systems.**

No person shall irrigate any area of land with water received from the city through a water application system installed after February 1, 1991, unless the system is designed and installed to retain all water on the property.

(Ord. No. 2318, § 2, 12-17-90; Ord. No. 3178, § 5, 10-5-98; Ord. No. 3409, 11-26-01; Ord. No. 3621, § 1A, 7-5-05)

#### **Sec. 49-245. Limitation on water intensive landscape/turf areas within new nonresidential facilities.**

(a) The following types of facilities shall limit the water intensive landscape/turf area within the landscapable area to the following percentages:

(1) *Schools--Fifteen (15) percent of total lot.* All of the remaining area shall consist of plants listed on the Arizona Department of Water Resources (ADWR) low-water use plant list.

(2) *Churches--Twenty-five (25) percent of total lot.* All of the remaining area shall consist of plants listed on the Arizona Department of Water Resources (ADWR) low-water use plant list.

(3) *Resorts (including hotels and motels)--* Ten (10) percent of the first nine thousand (9,000) square feet and eight and one-half (8.5) percent of the remainder of the total lot. At least ninety-five (95) percent of the remaining area shall consist of plants listed on the Arizona Department of Water Resources (ADWR) low-water use plant list.

(b) Designated active recreational areas shall not be considered as part of the lot and shall not be considered in determining compliance with this restriction.

(c) Cemeteries--Seventy-five (75) percent of their total operating facility area, excluding parking lots. Expanded portions of a cemetery are excluded if the ownership of the expanded portion is the same ownership as the cemetery as of December 31, 1984.

(d) Schools, cemeteries, golf courses, common areas of housing developments and public recreational facilities with water intensive landscape/turf greater than or equal to ten (10) acres are exempt from this provision because they are regulated as a large turf facility under the current ADWR management plan for the Phoenix Active Management Area.

(Ord. No. 2318, § 2, 12-17-90; Ord. No. 3161, § 2, 6-15-98; Ord. No. 3409, 11-26-01; Ord. No. 3621, § 1A, 7-5-05)

**Editor's note:** It should be noted that § 5a, of Ord. No. 3621, adopted July 5, 2005, shall be effective Aug. 5, 2005.

#### **Sec. 49-246. Limitation on water intensive landscape/turf acreage for new commercial users, new industrial users and common areas of residential developments.**

(a) All new commercial users and new industrial users shall limit water intensive landscape/turf area to the following percentage:

(1) If the area of the lot is nine thousand (9,000) square feet or less, the water intensive landscape/turf acreage shall be limited to an area equal to ten (10) percent of the total lot.

(2) If the area of the lot is larger than nine thousand (9,000) square feet but less than or equal to forty-three thousand five hundred sixty (43,560) square feet (one (1) acre), the water-intensive landscape/turf area shall be limited to an area equal to ten (10) percent of the first nine thousand (9,000) square feet and five (5) percent of the remainder of the lot. If the total lot exceeds forty-three thousand five hundred sixty (43,560) square feet, no additional water-intensive landscape/turf acreage shall be permitted.

(b) For residential common areas, the water intensive landscape/turf area shall be limited to ten (10) percent of the first nine thousand (9,000) square feet and five (5) percent of the remainder of the lot. If the total lot exceeds two hundred seventeen thousand eight hundred (217,800) square feet or five (5) acres, no additional water intensive landscape/turf area shall be permitted. Excluded from this calculation shall be areas used for active recreational areas.

(c) All plant material used (excluding those in the water intensive landscape/turf area) must be low water-use plants listed on the Arizona Department of Water Resources (ADWR) most current low water use plant list.

(d) No water intensive landscape/turf shall be permitted in the public right-of-way.

(Ord. No. 2318, § 2, 2-17-90; Ord. No. 3161, § 3, 6-15-98; Ord. No. 3409, 11-26-01; Ord. No. 3621, § 1A, 7-5-05)

**Editor's note:** It should be noted that § 5a, of Ord. No. 3621, adopted July 5, 2005, shall be effective Aug. 5, 2005.

#### **Sec. 49-247. Limitations on model home landscaping.**

(a) All new single-family model homes shall limit their water intensive landscape/turf area to the following percentage of the total lot area:

(1) If the area of the lot is nine thousand (9,000) square feet or less, the water intensive landscape/turf square footage shall be limited to an area equal to ten (10) percent of the total lot.

(2) If the area of the lot is larger than nine thousand (9,000) square feet but less or equal to forty-three thousand five hundred sixty (43,560) square feet (one (1) acre), the turf area shall be limited to an area equal to ten (10) percent of the first nine thousand (9,000) square feet and five (5) percent of the remainder of the lot area. If the total lot area exceeds forty-three thousand five hundred sixty (43,560) square feet, no additional turf area shall be permitted.

(b) Water intensive landscape/turf shall only be located in rear yards and play areas.

(c) All plant material used (excluding those in the water intensive landscape/turf area) must be low water-use plants listed on the Arizona Department of Water Resources (ADWR) most current low water use plant list.

(d) No water intensive landscape/turf shall be permitted in the right-of-way.

(Ord. No. 3161, § 4, 6-15-98; Ord. 3409, 11-26-01; Ord. No. 3621, § 1A, 7-5-05)

#### **Sec. 49-248. Conservation plans upon establishment of service to new nonresidential customers.**

(a) As a condition for the establishment of service, all new nonresidential customers with an estimated annual water demand of ten (10) acre-feet or more, other than users supplied water incidental to construction work, shall submit a conservation plan identifying the anticipated types of water uses and demonstrating the use of the latest commercially available conservation technologies for both interior and exterior water uses consistent with reasonable economic return.

(b) The city shall review each conservation plan and shall not commence serving water to the new nonresidential customer unless the plan demonstrates to the satisfaction of the city that the new customer will use the latest commercially available conservation technology for both interior and exterior water use consistent with reasonable economic return.

(c) If a new nonresidential customer, other than a user supplied water incidental to construction work, which did not have an estimated annual water demand of ten (10) acre-feet or more at the time the city commenced service of water to the customer, and which did not submit a conservation plan at that time, registers a water use of ten (10) acre-feet or more of water supplied by the city after the first full calendar year of operation or in a subsequent calendar year, the city shall notify the customer in writing that the customer shall, before July 1 of the following calendar year, submit to the city a water conservation plan meeting the specifications set forth in subparagraph (a) above for review and approval by the city.

(d) The city shall terminate water service to the new nonresidential customer unless the customer submits, within one hundred twenty (120) days after receiving the written notification in subparagraph (c) above, a water conservation plan demonstrating the use of the latest commercially available conservation technologies for both interior and exterior water use consistent with reasonable economic return.

(e) The city may grant 30-day extensions to the 120-day period if the new nonresidential customer pays to the city for each extension an amount equal to one-sixth ( 1/6) of the total amount paid to the city for water delivered to the customer in the previous calendar year, or three hundred dollars (\$300.00), whichever is greater. The city shall not grant more than three (3) such extensions to a new nonresidential customer.

(Ord. No. 2318, § 2, 12-17-90; Ord. No. 3178, § 6, 10-5-98; Ord. No. 3409, 11-26-01; Ord. No. 3621, § 1A, 7-5-05)

#### **Sec. 49-249. Leakage, escape of water prohibited.**

(a) No person shall permit the excess use, loss or escape of water through breaks, leaks or other malfunctions in the water user's plumbing or irrigation distribution system for any period of time after such escape of water should have reasonably been discovered and corrected.

(b) No person shall willfully or negligently permit or cause the escape or flow of irrigation water in such quantity as to cause flooding, impede vehicular or pedestrian traffic, create a hazardous condition to such traffic, or cause damage to city rights-of-way through failure or neglect to properly operate or maintain any irrigation structure, delivery ditch, or waste ditch.

(c) Willfully or negligently fail to accept irrigation water after it has been ordered.

(d) Irrigate property in a manner which results in the overflow of irrigation waters.

(Ord. No. 3178, § 8, 10-5-98; Ord. No. 3409, 11-26-01; Ord. No. 3621, § 1A, 7-5-05)

**Editor's note:** It should be noted that § 5a, of Ord. No. 3621, adopted July 5, 2005, shall be effective Aug. 5, 2005.

## **Sec. 49-250. Violations.**

(a) For a first violation of any provision of this section, the city shall issue a written notice of first violation and provide educational materials on water conservation, including a copy of the relevant provisions of this chapter, to the water user violating the provisions of this section. The city shall give the water user a reasonable period of time to correct the violation.

(b) For a second violation of any provision of this section, the city shall issue a written notice of second violation delivered by certified mail to the water user requiring correction of the violation within a reasonable period of time.

(c) For third violation of any provision of this section, the city shall issue a written notice of third violation to the water user imposing a fifty dollar (\$50.00) fine. The fine shall be added to the water user's account. Failure to pay any portion of a water user's account, including any fines imposed pursuant to this section, shall subject said account to termination of water service in accordance with the provisions of this section.

(d) For a fourth or subsequent violation of this section, the city shall impose a fine equal to twice the average monthly billing for the immediately preceding six-month period for the meter through which the wasted water was supplied. The fine shall be added to the water user's account. Failure to pay any portion of a water user's account, including any fines imposed pursuant to this section, shall subject said account to termination of water service. In addition to any fine imposed, the city may also terminate water service to the water user. The city shall not restore service until the general manager or the general manager's designee has determined that the water user has provided reasonable assurances that future violations of this chapter by such user will not occur. In addition, the general manager may require a security deposit.

(e) In addition to the remedies set forth above, the city may seize equipment, line, fountains and other devices which are operated in violation of this Code, until the fine is paid. The city may dispose of these items if the fine is not paid in six (6) months from the date the equipment was confiscated.

(Ord. No. 3178, § 8, 10-5-98; Ord. No. 3409, 11-26-01; Ord. No. 3621, § 1A, 7-5-05)

**Editor's note:** It should be noted that § 5a, of Ord. No. 3621, adopted July 5, 2005, shall be effective Aug. 5, 2005.

## **Sec. 49-251. Conservation waivers.**

The director may grant a waiver from indoor conservation code requirements, but only when the special character of a structure necessitates it, such as when a building has official historical status.

(Ord. No. 3409, 11-26-01; Ord. No. 3621, §§ 1A, 2, 7-5-05)

## **Sec. 49-252. Right to hearing.**

Any person against whom a penalty is levied under this section shall have a right to a hearing before the general manager or the general manager's designee. The request for hearing must be made to the general manager or the general manager's designee and must be received no later than forty-five (45) days after the penalty is levied. Once the request for hearing has been acknowledged by the city, payment of the penalty charge is not required until a determination is made. The hearing shall not be conducted in accordance with the formal Rules of Evidence. Testimony may be taken under oath, with the right to cross-examine witnesses. The decision of the general manager or the general manager's designee shall be final.

(Ord. No. 3178, § 11, 10-5-98; Ord. No. 3409, 11-26-01; Ord. No. 3621, § 1A, 7-5-05)

**Editor's note:** It should be noted that § 5a, of Ord. No. 3621, adopted July 5, 2005, shall be effective Aug. 5, 2005.